

No. 166. An act relating to miscellaneous changes to education laws.

(S.283)

It is hereby enacted by the General Assembly of the State of Vermont:

* * * Community College of Vermont In-State Tuition for Refugees * * *

Sec. 1. 16 V.S.A. § 2185 is amended to read:

§ 2185. DETERMINATION OF RESIDENCY FOR TUITION PURPOSES

(a) The Board of Trustees shall adopt policies related to residency for tuition purposes, consistent with State and federal requirements.

(b) Any member of the U.S. Armed Forces on active duty who is transferred to Vermont for duty other than for the purpose of education shall, upon transfer and for the period of active duty served in Vermont, be considered a resident for in-state tuition purposes at the start of the next semester or academic period.

(c) For determination of residency for tuition to the Community College of Vermont, a person who resides in Vermont shall be considered a resident for in-state tuition purposes, beginning at the start of the next semester or academic period after arrival in Vermont, if that person:

(1) qualifies as a refugee pursuant to 8 U.S.C. 1101(a)(42);

(2) is granted parole to enter the United States pursuant to 8 U.S.C.

1182(d)(5); or

(3) is issued a special immigrant visa pursuant to the Afghan Allies

Protection Act of 2009, as amended.

Sec. 2. INCENTIVE GRANT ELIGIBILITY; RESIDENCY

(a) Notwithstanding any provision of law to the contrary, a person who qualifies for in-state tuition to the Community College of Vermont under 16 V.S.A. § 2185(c) shall not be ineligible for the Vermont incentive grant program under 16 V.S.A. §§ 2841–2846 solely on account of that person’s residency status.

(b) This section is repealed on July 1, 2023.

* * * Suspension or Expulsion of Students * * *

Sec. 3. 16 V.S.A. § 1162 is amended to read:

§ 1162. SUSPENSION OR EXPULSION OF STUDENTS

(a) A superintendent or principal may, pursuant to policies adopted by the school board that are consistent with State Board rules, suspend a student for up to 10 school days or, with the approval of the board of the school district, expel a student for up to the remainder of the school year or up to 90 school days, whichever is longer, for misconduct:

(1) on school property, on a school bus, or at a school-sponsored activity when the misconduct makes the continued presence of the student harmful to the welfare of the school;

(2) not on school property, on a school bus, or at a school-sponsored activity where direct harm to the welfare of the school can be demonstrated; or

(3) not on school property, on a school bus, or at a school-sponsored activity where the misconduct can be shown to pose a clear and substantial interference with another student's equal access to educational programs.

(b) Nothing contained in this section shall prevent a superintendent or principal, subject to subsequent due process procedures, from removing immediately from a school a student who poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process of the school, or from expelling a student who brings a weapon to school pursuant to section 1166 of this title.

(c) Principals, superintendents, and school boards are authorized and encouraged to provide alternative education services or programs to students during any period of suspension or expulsion authorized under this section.

(d) Notwithstanding anything to the contrary in this chapter, a student enrolled in a public school, approved independent school, or prequalified private prekindergarten program who is under eight years of age shall not be suspended or expelled from the school; provided, however, that the school may suspend or expel the student if the student poses an imminent threat of harm or danger to others in the school.

Sec. 4. REPORT AND RECOMMENDATIONS ON SUSPENSION,
EXPULSION, AND EXCLUSIONARY PRACTICES IN EARLY
CHILDHOOD EDUCATION SETTINGS

The Building Bright Futures Council, established in 33 V.S.A. § 4602, shall collaborate with the Agencies of Human Services and Education to define suspension, expulsion, and exclusionary practices in early childhood education settings and to establish best practices for supporting children who face such measures. The work of the Council shall include reviewing available data on exclusionary practices. On or before January 15, 2023 the Building Bright Futures Council shall issue a written report to the Senate and House Committees on Education, the Senate Committee on Health and Welfare, and the House Committee on Human Services detailing its work and findings and making recommendations for legislative action.

* * * Entrance Age Threshold for Public School Kindergarten * * *

Sec. 5. REPORT AND RECOMMENDATIONS ON THE IMPACT OF
STANDARDIZING THE ENTRANCE AGE THRESHOLD FOR
PUBLIC SCHOOL KINDERGARTEN

On or before December 15, 2022, the Agency of Education shall issue a written report to the Senate and House Committees on Education on the impact of standardizing the entrance age threshold for public school kindergarten attendance. In preparing the report, the Agency of Education shall consult with the Vermont Department for Children and Families, the Vermont

Department of Health, the Vermont School Boards Association, the Vermont Principals' Association, the Vermont Superintendents Association, and the Vermont National Education Association. The report shall include any recommendations for legislative action.

* * * Statewide Uniform School Calendar * * *

Sec. 6. REPORT AND RECOMMENDATIONS FOR A STATEWIDE
UNIFORM SCHOOL CALENDAR

On or before January 15, 2024, the Agency of Education shall issue a written report to the Senate and House Committees on Education with a proposed statewide uniform school calendar, created to improve high-quality learning opportunities for all Vermont students. In creating the calendar, the Agency shall consider the impact on attendance at regional career and technical education centers as well as the impact on families and educators. The uniform calendar shall include student attendance days, periods of vacation, holidays, and teacher in-service education days.

* * * Remote Learning * * *

Sec. 7. REPORT AND RECOMMENDATIONS FOR STATEWIDE
REMOTE LEARNING POLICY

On or before January 15, 2023, the Agency of Education, in consultation with the State Board of Education, shall issue a written report to the Senate and House Committees on Education with recommendations for a statewide remote learning policy that incorporates remote learning into the requirements for

student attendance, school days, and cumulative instructional hours. The report shall define remote learning and recommend statewide quality standards to ensure substantially equal access to quality basic education. The report shall also include any recommendations for legislative action.

* * * PCBs * * *

Sec. 8. 2021 Acts and Resolves No. 74, Sec. E.709.1 is amended to read:

Sec. E.709.1 ENVIRONMENTAL CONTINGENCY FUND;

POLYCHLORINATED BIPHENYLS (PCBs) TESTING IN
SCHOOLS

(a) Notwithstanding 10 V.S.A. § 1283, of the funds transferred in Sec. D.101(a) of this act to the Environmental Contingency Fund, the Department of Environmental Conservation, in consultation with the Department of Health and the Agency of Education, shall use up to \$4,500,000 to complete air indoor quality testing for Polychlorinated Biphenyls (PCBs) in public schools and approved and recognized independent schools that were constructed or renovated before 1980. All schools subject to this subsection shall test for PCBs on or before July 1, ~~2024~~ 2025. ~~It is the intent of the General Assembly to develop additional guidance during the 2022 legislative session.~~

(b) On or before January 15, 2023, the Secretary of Natural Resources, after consultation with the Secretary of Education and the Commissioner of Health, shall submit to the House Committees on Education and on Natural

Resources, Fish, and Wildlife and the Senate Committees on Education and on Natural Resources and Energy the following information addressing the testing of air quality for PCBs in public schools and approved and recognized independent schools that were constructed or renovated before 1980:

(1) the testing methodology used, including where and how samples were collected;

(2) the results from schools that were tested, any immediate responses that were taken by the school, and any planned responses that will take place by a school;

(3) a cost estimate for the work planned to take place for schools that were tested and any cost projections based on the sampling that has taken place;

(4) a schedule for testing all remaining schools, including whether testing will occur when students and staff are present in the school; and

(5) a proposal for how any required response to the presence of PCBs in a school shall be funded, including any proposed financial assistance from the State to schools to implement a required response.

Sec. 9. 2021 Acts and Resolves No. 72, Sec. 3(b) is amended to read:

(b) The Secretary of Education shall contract with an independent third party to conduct the inventory and assessment described in subsection (a) of this section. The inventory shall be completed on or before January 15, 2022, and the assessment shall be completed on or before October 1, ~~2022~~ 2023.

Sec. 10. 2021 Acts and Resolves No. 72, Sec. 12 is amended to read:

Sec. 12. RADON TESTING; SCHOOL FACILITIES

(a) On or before June 30, ~~2024~~ 2025, each public school and approved independent school, as defined in 16 V.S.A. § 11, shall perform a radon measurement in accordance with the ANSI/AARST protocol for conducting Radon and Radon Decay Products in Schools and Large Buildings (MALB-2014) on any facility that has not had a test completed in five or more years; ~~provided, however, that any public school or approved independent school that is engaged in implementing an indoor air quality improvement project prior to June 30, 2023 shall perform a radon measurement on or before June 30, 2024.~~

(b) Each public school and approved independent school shall make available the results of the radon measurement described in subsection (a) of this section to each employee and student at the school.

* * * Crime Insurance for Incorporated School Districts * * *

Sec. 11. 16 V.S.A. § 492 is amended to read:

§ 492. POWERS, DUTIES, AND LIABILITIES; BONDS

(a) The powers, duties, and liabilities of the collector, treasurer, prudential committee, and clerk shall be like those of a town collector, treasurer, board of school directors, and the school board clerk, respectively.

(b) Before entering upon their duties, the collector and treasurer shall give a bond to the district conditioned for the faithful performance of their duties, in such sum as may be required. ~~When~~ In lieu of taking a personal bond from a

collector or treasurer, or both, a school district may choose to provide suitable crime insurance covering the collector or treasurer, or both. If a school district has not provided suitable crime insurance in lieu of a bond and a collector or treasurer for ten days neglects to give a bond as required, ~~his or her~~ that office shall be vacant.

* * * Interstate School Districts * * *

Sec. 12. INTERSTATE SCHOOL DISTRICTS; INDIVIDUALIZED
EDUCATION PROGRAM

Notwithstanding any provision of law to the contrary, a Vermont resident who is enrolled in an interstate school district, is on an individualized education program (IEP), is 21 years of age or younger, and who is not entitled to receive special education services through the interstate school district due to an age limitation shall be entitled to enroll in a Vermont public high school and receive special education services through 21 years of age. The student may choose the Vermont public high school, provided that the school determines that it has capacity and is able to provide the services required under the student's IEP. The student's local education agency of residence shall be the student's local education agency for special education purposes. Tuition and special education expenses for the student shall be paid by the Agency of Education, and the Agency of Education shall include in its annual budget request to the General Assembly an amount to cover these expenses.

Sec. 13. CONTINGENT EFFECTIVE DATE OF INTERSTATE SCHOOL
DISTRICT INDIVIDUALIZED EDUCATION PLAN SERVICES
CHANGE

Sec. 12 of this act shall not take effect if, on or before July 1, 2023, the
General Court of New Hampshire enacts legislation that extends the age
through which a child is eligible to receive special education services to 21
years of age.

* * * Approved and Recognized Independent Schools * * *

Sec. 14. 16 V.S.A. § 166(b)(8) is amended to read:

(8)(A) If an approved independent school experiences any of the
following financial reporting events during the period of its approved status,
the school shall notify the Secretary of Education within five days after its
knowledge of the event unless the failure is de minimis:

(i) the school's failure to file its federal or State tax returns when
due, after permissible extension periods have been taken into account;

(ii) the school's failure to meet its payroll obligations as they are
due or to pay federal or State payroll tax obligations as they are due;

(iii) the school's failure to maintain required retirement
contributions;

(iv) the school's use of designated funds for nondesignated
purposes;

(v) the school's inability to fully comply with the financial terms of its secured installment debt obligations over a period of two consecutive months, including the school's failure to make interest or principal payments as they are due or to maintain any required financial ratios;

(vi) the withdrawal or conditioning of the school's accreditation on financial grounds by a private, State, or regional agency recognized by the State Board for accrediting purposes; or

(vii) the school's insolvency, as defined in 9 V.S.A. § 2286(a).

(B)(i) If the ~~State Board~~ Secretary reasonably believes that an approved independent school lacks financial capacity to meet its stated objectives during the period of its approved status, then the ~~State Board~~ Secretary shall notify the school in writing of the reasons for this belief and permit the school a reasonable opportunity to respond.

(ii) If the ~~State Board~~ Secretary, after having provided the school a reasonable opportunity to respond, does not find that the school has satisfactorily responded or demonstrated its financial capacity, the ~~State Board~~ Secretary may establish a review team; that, with the consent of the school, includes a member of the Council of Independent Schools, to:

(I) conduct a school visit to assess the school's financial capacity;

(II) obtain from the school such financial documentation as the review team requires to perform its assessment; and

(III) submit a report of its findings and recommendations to the State Board.

(iii) If the State Board concludes that an approved independent school lacks financial capacity to meet its stated objectives during the period of its approved status, the State Board may take any action that is authorized by this section.

(iv) In considering whether an independent school lacks financial capacity to meet its stated objectives during the period of its approved status and what actions the State Board should take if it makes this finding, the State Board may consult with, and draw on the analytical resources of, the Vermont Department of Financial Regulation.

(C) Information provided by an independent school under this subsection that is not already in the public domain is exempt from public inspection and copying under the Public Records Act and shall be kept confidential.

* * * Prekindergarten Prequalification Quality Standards * * *

Sec. 15. 16 V.S.A. § 829 is amended to read:

§ 829. PREKINDERGARTEN EDUCATION

* * *

(c) Prequalification. Pursuant to rules jointly developed and overseen by the Secretaries of Education and of Human Services and adopted by the State Board pursuant to 3 V.S.A. chapter 25, the Agencies jointly may determine

that a private or public provider of prekindergarten education is qualified for purposes of this section and include the provider in a publicly accessible database of prequalified providers. At a minimum, the rules shall define the process by which a provider applies for and maintains prequalification status, shall identify the minimum quality standards for prequalification, and shall include the following requirements:

(1) A program of prekindergarten education, whether provided by a school district or a private provider, shall have received:

(A) National Association for the Education of Young Children (NAEYC) accreditation; ~~or~~

(B) at least four stars in the Department for Children and Families' STARS system ~~with a plan to get to at least two points in each of the five arenas;~~ or

(C) three stars in the STARS system if the provider has developed a plan, approved by the Commissioner for Children and Families and the Secretary of Education, to achieve four or more stars ~~with at least two points in each of the five arenas in no more than three years, and the provider has met intermediate milestones.~~

(2) A licensed provider shall employ or contract for the services of at least one teacher who is licensed and endorsed in early childhood education or in early childhood special education under chapter 51 of this title.

(3) A registered home provider that is not licensed and endorsed in early childhood education or early childhood special education shall receive regular, active supervision and training from a teacher who is licensed and endorsed in early childhood education or in early childhood special education under chapter 51 of this title.

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* * * Agency of Education; School Facilities Position * * *

Sec. 16. 2021 Acts and Resolves No. 72, Sec. 7 is amended to read:

Sec. 7. AGENCY OF EDUCATION; CREATION OF POSITIONS OR
CONTRACT

(a) One limited-service position funded through ~~January 15~~ September 30, 2023 is created in the Agency of Education to implement this act by using an existing position in the position pool. In the event the required expertise is not available through position recruitment, the Agency is authorized to contract for the service to implement this act.

(b) In fiscal years 2022 and 2023, the Agency of Education is authorized to use not more than \$127,500.00 from the amount allocated to the Agency of Education Elementary and Secondary School Emergency Relief Fund pursuant to Section 313(e) of the Consolidated Appropriations Act, 2021, Pub. L. No. 116–260 for the position or contract described in subsection (a) of this section.

* * * Effective Dates * * *

Sec. 17. EFFECTIVE DATES

This act shall take effect on passage, except that Secs. 12 (interstate school district individualized education plan services change) and 15 (prekindergarten qualification standards) shall take effect on July 1, 2023.

Date Governor signed bill: June 1, 2022

Revision note: In Sec. 17, effective dates, the Office of Legislative Counsel substituted “15” preceding “(prekindergarten qualification standards)” for “14” to correct the reference to the section of the act that relates to prekindergarten qualification standards.